

**ASSEMBLY BILL**

**No. 2503**

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**Introduced by Assembly Member John A. Perez**

February 19, 2010

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An act to repeal Section 6429.5 of, and to repeal and add Article 2 (commencing with Section 6420) of Chapter 5 of Part 1 of Division 6 of, the Fish and Game Code, and to add Division 37 (commencing with Section 71500) to the Public Resources Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as introduced, John A. Perez. Ocean resources: artificial reefs.

Existing law establishes a California Artificial Reef Program, administered by the Department of Fish and Game, to include the placement of artificial reefs, as defined, in state water and a prescribed study of existing successful reefs and new reefs to determine design criteria.

This bill would repeal those provisions and, instead, would enact the California Marine Life Legacy Act to establish a program of artificial reef research and development, administered by the department. The act would authorize the department to approve the conversion of an offshore oil platform or production facility into an artificial reef, if specified criteria are satisfied, including a finding that the alternative of converting the decommissioned offshore oil platform or production facility into an artificial reef provides a net benefit to the environment compared to the alternative of removing the facilities from the marine environment. The act would require the department, for purposes of determining whether such a conversion provides a net benefit, to

determine criteria for biological evaluation of an oil platform or production facility for use as an artificial reef and to consult with and advise the California Coastal Commission, the State Lands Commission, and other responsible agencies as to that criteria. The act would require the department to determine the cost savings of a conversion, and would require the owner or operator, when all applicable permits are granted for conversion, to apportion a percentage of the cost savings funds in accordance with a prescribed schedule to the California Endowment for Marine Preservation and the county immediately adjacent to the location of the facility. The act would authorize the department to take title to a decommissioned offshore oil platform or production facility in either state or federal waters if a prescribed agreement is reached. The act, until January 1, 2014, would establish an accelerated existing platform decommissioning program with alternate provisions for the conversion of certain existing oil platforms or production facilities, including an alternate apportionment schedule.

The bill would establish the California Endowment for Marine Preservation, subject to the Nonprofit Public Benefit Corporation Law, in order to create a permanent source of funding for projects that will conserve, protect, restore, and enhance the open coastal marine resources of the state. The endowment would be governed by a board of directors, with membership and duties prescribed by the bill.

The bill would require the endowment to coordinate its activities with the Department of Fish and Game, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Lands Commission, and appropriate federal agencies.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Article 2 (commencing with Section 6420) of
- 2 Chapter 5 of Part 1 of Division 6 of the Fish and Game Code is
- 3 repealed.
- 4 SEC. 2. Article 2 (commencing with Section 6420) is added
- 5 to Chapter 5 of Part 1 of Division 6 of the Fish and Game Code,
- 6 to read:

Article 2. California Marine Life Legacy Act

6420. The Legislature finds and declares all of the following:

(a) This act shall be known, and may be cited, as the California Marine Life Legacy Act.

(b) California's extraordinary marine biological diversity is a vital asset to the state and nation. The diversity of species and ecosystems found in the ocean waters off the state is important to public health and well-being, ecological health, and ocean-dependent industries.

(c) A program of artificial reef research and development, including reef design, placement, and monitoring, is in the public interest and can best be accomplished under the administration of the department with the cooperation and assistance of the University of California, the California State University, the California Ocean Science Trust, other established, appropriate academic institutions, and other organizations with demonstrated expertise in the field.

(d) This state is currently implementing a system of marine protected areas in order to protect habitat and ecosystems, conserve biological diversity, provide a sanctuary for fish and other sea life, enhance recreational and educational opportunities, and provide a reference point against which scientists can measure changes elsewhere in the marine environment, and may help rebuild depleted fisheries.

(e) Efforts to enhance marine diversity through the placement of artificial reefs need to be investigated.

(f) A state artificial reef research and construction program under the administration of the department is necessary to coordinate ongoing studies and construction of artificial reefs in waters of the state.

(g) It is important to provide adequate funding to meet legislatively imposed mandates.

6421. For purposes of this article, the following terms have the following meanings:

(a) "Artificial reef" means manmade or natural objects intentionally placed or allowed to remain in place in selected areas of the marine environment to duplicate those conditions that induce production of fish and invertebrates on natural reefs and rough bottoms, support additional biomass, enhance biodiversity and that

1 stimulate the growth of kelp or other midwater plant life that  
2 creates natural habitat for those species.

3 (b) “Cost savings” are the difference between the estimated cost  
4 to the operator or owner of complete removal of an offshore oil  
5 platform or production facility and the costs incurred by the  
6 operator or owner of converting a platform or facility into an  
7 artificial reef.

8 (c) “Endowment” means the California Endowment for Marine  
9 Preservation established in Division 37 (commencing with Section  
10 71500) of the Public Resources Code.

11 (d) “National Fishing Enhancement Act of 1984” means Title  
12 II of Public Law 98-623.

13 (e) “Offshore oil platform or production facility” means  
14 platforms, piers, and artificial islands located seaward of mean  
15 lower low water, used for oil and gas exploration, development,  
16 production, processing, or storage.

17 (f) “Oil” means any kind of petroleum, liquid hydrocarbons,  
18 natural gas, or petroleum products or any fraction or residues  
19 therefrom.

20 (g) “Open coastal marine resource” means those marine  
21 resources that use open coastal waters as their habitat.

22 (h) “Open coastal waters” means the area composed of the  
23 submerged lands of the state that are below the mean lower low  
24 water extending seaward to the boundaries of the Exclusive  
25 Economic Zone.

26 (i) “Production” means increases in the biomass of a species or  
27 number of species.

28 (j) “Program” means the California Artificial Reef Program  
29 administered pursuant to this article.

30 (k) “Reef materials” include only materials allowed under the  
31 National Artificial Reef Plan, adopted under the National Fishing  
32 Enhancement Act of 1984 for construction of artificial reefs.

33 (l) “State waters” means waters within the seaward boundary  
34 of the state as identified in Section 2 of Article III of the California  
35 Constitution.

36 6422. The department shall administer the program.

37 6423. The program shall include all of the following elements:

38 (a) The placement of artificial reefs, including, but not limited  
39 to, decommissioned offshore oil platforms allowed to remain in  
40 place as artificial reefs in state and federal waters.

1 (b) A study of existing successful reefs and all new reefs placed  
2 by the program to determine the design criteria needed to construct  
3 artificial reefs capable of increasing marine biomass and  
4 biodiversity in state and federal waters.

5 (c) A determination of the requirements for reef siting and  
6 placement.

7 (d) Consideration of modification and use of existing marine  
8 structures in both state and federal waters as artificial reefs.

9 6424. The amount allocated for the administration of the  
10 program in any fiscal year shall not exceed the amount authorized  
11 by applicable state and federal policy guidelines.

12 6425. It is the intent of the Legislature that future sources of  
13 funding for the program may include, but are not limited to, the  
14 Fish and Game Preservation Fund, the California Environmental  
15 License Plate Fund, the Wildlife Restoration Fund, bond funds,  
16 federal grants-in-aid, county fish and game propagation funds, the  
17 California Endowment for Marine Preservation, and private  
18 donations.

19 6426. The Legislature hereby finds and declares all of the  
20 following:

21 (a) There is an existing permitting process for decommissioning  
22 of offshore oil platforms or production facilities.

23 (b) Decommissioning of the offshore oil platforms or production  
24 facilities has already occurred and as part of the permitting process  
25 there was some consideration given to converting platforms or  
26 facilities into artificial reefs.

27 (c) The operator or owner of offshore oil platforms or production  
28 facilities could save a considerable sum of money if the  
29 decommissioned offshore oil platform or production facility is  
30 allowed by permitting local, state, and federal agencies to remain  
31 in place and be converted into an artificial reef.

32 (d) The savings that result from that conversion should be shared  
33 with the citizens of this state.

34 (e) A mechanism is needed to ensure that if local, state, and  
35 federal agencies allow the conversion of an offshore oil platform  
36 or production facility to an artificial reef, the citizens of this state  
37 would share in the savings and those shared funds would be used  
38 to benefit the open coastal marine resources that lie offshore of  
39 this state.

(f) Offshore oil platforms may function as artificial reefs and provide habitat for many species, including threatened and endangered species.

6426.1. The department shall serve as the primary authority for managing and operating artificial reefs created from offshore oil platforms or production facilities. The department may obtain funds for the planning, development, maintenance, and operation of those artificial reefs and may accept gifts, subventions, grants, rebates, and subsidies from any lawful source. The department may adopt regulations to implement this article.

6427. The department may approve the conversion of an offshore oil platform or production facility into an artificial reef only if the following criteria are satisfied:

(a) The artificial reef will be consistent with the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) and the National Fishing Enhancement Act of 1984.

(b) The alternative of converting the decommissioned offshore oil platform or production facility into an artificial reef provides a net benefit to the environment compared to the alternative of removing the facilities from the marine environment. The determination of net environmental benefit shall take into account the contribution of the artificial reef to protection and productivity of fish and other marine life, any adverse impacts to biological resources, water quality, air quality, or any other offshore or onshore environmental impacts from the full removal of the facility that would be avoided by conversion to an artificial reef, and any adverse impacts to biological resources, water quality, air quality, or any other offshore or onshore environmental impacts from the decommissioning and conversion of the facility or from allowing the facility to remain in place as an artificial reef.

(c) The artificial reef will be consistent with state and federal water quality laws.

(d) The artificial reef will be maintained in a manner consistent with navigational safety and all applicable state, federal, and international laws.

(e) The artificial reef is consistent with the California Coastal Management Program, the Marine Life Management Act of 1998 (Chapter 1052 of the Statutes of 1998), the Marine Life Protection

1 Act (Chapter 10.5 (commencing with Section 2850) of Division  
2 3), and applicable federal law.

3 (f) (1) The owner or operator of the offshore oil platform or  
4 production facility provides sufficient funds to the department for  
5 the purposes of conducting all of the following:

6 (A) An evaluation of the platform or facility to determine the  
7 benefits of the artificial reef sites to biotic productivity, including  
8 any necessary research.

9 (B) Activities that meet the requirements of this subdivision,  
10 including the costs of reviewing, approving, and permitting the  
11 proposed projects, which includes the costs of determining whether  
12 the project meets the requirements of all applicable laws and  
13 regulations and the costs of environmental assessment and review.

14 (C) Overall management of the reef, including enforcement,  
15 research, and monitoring.

16 (D) Ensuring that the owner or operator of the oil platform or  
17 production facility indemnifies the state against any and all liability  
18 that may result, including defending the state against any claims  
19 against the department for any actions the department undertakes  
20 pursuant to this article. In adopting requirements under this article,  
21 the department may consider a variety of mechanisms, including  
22 an agreement to indemnify the state, an insurance policy, a cash  
23 settlement, or any other mechanism that ensures that the state can  
24 defend itself against any liability claims against the department  
25 for any actions the department undertakes pursuant to this article  
26 and pay any resulting judgments.

27 (2) Funds required for the purposes of this subdivision shall be  
28 deposited into the California Endowment for Marine Preservation,  
29 except those funds required by the department to pay any  
30 permitting costs, including, but not limited to, scientific  
31 evaluations, environmental impact reports, and monitoring studies.

32 (g) The owner or operator of the offshore oil platform or  
33 production facility applies for, and receives, all required permits  
34 issued by any governmental agency, including, but not limited to,  
35 the permit issued by the United States Army Corps of Engineers.

36 6427.5. The department may take title to a decommissioned  
37 offshore oil platform or production facility in either state or federal  
38 waters if an agreement is reached that will ensure that the cost  
39 savings identified are deposited according to Section 6429.3, the  
40 requirements of this article are met, the owner or operator has

1 received all applicable government permits and the artificial reef  
2 conversion operation is completed, and the state is indemnified  
3 from any liability that may result from approving the conversion  
4 of an offshore oil platform or production facility to an artificial  
5 reef or any liability that may result from the ownership of the reef.

6 6428. The Legislature hereby finds and declares all of the  
7 following:

8 (a) The conversion of offshore oil platforms or production  
9 facilities should not be done until there has been a thorough  
10 scientific study and evaluation.

11 (b) The costs of such a study should be borne by the operators  
12 of offshore oil platforms or production facilities.

13 (c) Each offshore oil platform or production facility creates a  
14 unique environment because of its location, depth, and other  
15 ecological factors.

16 (d) Because of significant variations, those scientific studies  
17 and evaluations should be done for each offshore oil platform or  
18 production facility for which an application for the use of the oil  
19 platform or production facility as an artificial reef has been made  
20 to the department.

21 6428.1. The department, for purposes of determining whether  
22 any conversion of an oil platform or production facility for use as  
23 an artificial reef provides a net benefit to the marine environment  
24 compared to the alternative of removing the facilities from the  
25 marine environment, shall determine criteria for biological  
26 evaluation of an oil platform or production facility for use as an  
27 artificial reef and shall consult with and advise the California  
28 Coastal Commission, the State Lands Commission, and other  
29 responsible agencies as to that criteria. The criteria shall include,  
30 but are not limited to, the depth of the artificial reef in relation to  
31 its value as habitat and the location of the artificial reef in relation  
32 to other reefs, both natural and artificial. The criteria shall not  
33 include any consideration of the funds to be generated by the  
34 conversion to an artificial reef. The department shall commence  
35 developing that criteria upon receiving an application for the use  
36 of the oil platform or production facility as an artificial reef. The  
37 department's determination of that criteria is a necessary part of  
38 any consideration of an application and the costs of determining  
39 that criteria shall be borne by the applicant or applicants.



1     6429. (a) The department shall ensure that any cost savings  
2 are accurately and reasonably calculated. The department may  
3 contract or enter into a memorandum of understanding with any  
4 other appropriate governmental agency or other party, including  
5 an independent expert, to ensure that cost savings are accurately  
6 and reasonably calculated.

7     (b) The department shall use and consider any estimates of cost  
8 savings made by any governmental agency, including, but not  
9 limited to, the Internal Revenue Service, the Franchise Tax Board,  
10 the Minerals Management Service of the United States Department  
11 of the Interior, and the State Lands Commission. If the department  
12 disagrees with the estimate used by any other agency, the  
13 department shall prepare a public report. That public report shall  
14 explain any discrepancies and differences between those estimates  
15 and provide the basis for the department's finding that other  
16 estimates are less reliable and the department's use of a different  
17 cost savings estimate.

18     6429.1. The oil platform or production facility owner or  
19 operator at any time prior to transfer of title to the state, at its sole  
20 discretion, shall have the right to cease participation in the artificial  
21 reef conversion and pursue full decommissioning, subject to  
22 reimbursement to the state of the reasonable costs and expenses  
23 incurred by the state.

24     6429.2. (a) Nothing in this article shall be construed to do any  
25 of the following:

26     (1) Relieve the prior owner or operator of an offshore oil  
27 platform or production facility from any continuing liability under  
28 any of the following if the liability is associated with seepage or  
29 release of oil from an offshore oil platform or production facility  
30 that was decommissioned pursuant to an order of, or any action  
31 taken by, and in accordance with, any applicable rule or regulation  
32 of, any federal or state agency:

33     (A) Any state statute or regulation regarding liability for the  
34 spilling of oil.

35     (B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701  
36 et seq.).

37     (C) Any other provision of law.

38     (2) Establish any new liability on the part of the state.

1 (3) Require any agency with jurisdiction to approve the artificial  
2 reef conversion, in whole or in part, of an offshore oil platform or  
3 production facility.

4 (4) Promote, encourage, or facilitate offshore oil exploration,  
5 development, and production within California's open coastal  
6 waters.

7 (5) Require the United States Department of the Interior's  
8 Minerals Management Service or the State Lands Commission to  
9 modify, amend, or alter an existing oil and gas lease to approve  
10 conversion of an offshore oil platform or production facility.

11 (6) Alter any existing law or applicable rule or regulation of  
12 any federal or state agency that establishes liability for damages  
13 arising with respect to artificial reefs or reef materials, including,  
14 but not limited to, components of decommissioned oil facilities.

15 (7) Alter any existing law or policy that protects natural reefs.

16 (8) Alter or limit the authority or duties of any state or local  
17 agency, including, but not limited to, the State Lands Commission  
18 and the California Coastal Commission.

19 (9) Approve any particular method of abandonment.

20 (b) Any conversion of an offshore oil platform or production  
21 facility for use as an artificial reef shall not be used or counted as  
22 mitigation for any environmental impacts or natural resource  
23 damages.

24 6429.3. (a) When all applicable local, state, and federal permits  
25 are granted to allow any offshore oil platform or production facility  
26 to be converted into an artificial reef, 50 percent of the cost savings  
27 to the owner or operator from converting the platform or facility  
28 into an artificial reef, rather than removing the facility, shall be  
29 apportioned by the owner or operator to the entities described in  
30 subdivision (d).

31 (b) This section establishes a voluntary program through which  
32 an individual owner or operator of one or more offshore oil  
33 platforms or production facilities may choose to participate in a  
34 program to create an artificial reef from the platform or facility  
35 with the assent of all local, state, or federal permitting agencies.  
36 However, the owner or operator of a decommissioned offshore oil  
37 platform or production facility shall apportion the portion of the  
38 savings calculated pursuant to subdivision (a) to the entities  
39 described in subdivision (d) if a platform or production facility is  
40 converted into an artificial reef in open coastal waters.

1 (c) This section does not apply to an offshore oil platform or  
2 production facility if the majority of the costs of removal of the  
3 platform or facility will be paid by the federal government, the  
4 State of California, or a grantee of state tide and submerged lands.

5 (d) The funds described in subdivision (a) shall be apportioned  
6 as follows:

7 (1) Ninety percent shall be deposited into the California  
8 Endowment for Marine Preservation. The endowment may expend  
9 that money for the purposes of Division 37 (commencing with  
10 Section 71500) of the Public Resources Code.

11 (2) Ten percent shall be deposited by the owner or operator with  
12 the board of supervisors of the county immediately adjacent to the  
13 location of the facility prior to its decommissioning. The county  
14 shall use those funds for projects within coastal lands and waters.  
15 As used in this paragraph, “coastal lands and waters” means those  
16 areas composed of those tide and submerged lands of the state that  
17 are waterward of the mean high tide line and extending seaward  
18 to the boundaries of the Exclusive Economic Zone and those areas  
19 landward of the mean high tide line that are also within the coastal  
20 zone, as defined and described pursuant to Section 30103 of the  
21 Public Resources Code. The projects shall otherwise meet the  
22 requirements of Section 71552 of the Public Resources Code.

23 (e) The Legislature finds and declares that the purposes set forth  
24 in subdivision (d) are special fund purposes.

25 6429.4. Nothing in this article is intended, and it shall not be  
26 construed, to limit or affect the authority or duties of any state or  
27 local agency, including, but not limited to, the State Lands  
28 Commission and the California Coastal Commission. Nothing in  
29 this division is intended, and it shall not be construed, to be an  
30 approval of any particular method of abandonment.

31 6429.5. (a) Notwithstanding any other provision of this article,  
32 the Accelerated Existing Platform Decommissioning Program is  
33 hereby established.

34 (b) For purposes of this section, “accelerated program” means  
35 the Accelerated Existing Platform Decommissioning Program as  
36 established by this section.

37 (c) If the department finds that the conversion of an oil platform  
38 or production facility for use as an artificial reef pursuant to the  
39 accelerated program meets all of the requirements of subdivisions  
40 (d), (e) and (f), the conversion of that facility for use as an artificial

1 reef shall be exempt from the California Environmental Quality  
2 Act (Division 13 (commencing with Section 21000) of the Public  
3 Resources Code).

4 (d) The owner or operator of an offshore oil platform or  
5 production facility may apply to enroll the facility in the accelerated  
6 program by submitting to the department an application that meets  
7 all of the requirements of Sections 6427 and 6427.5 and contains  
8 the following:

9 (1) A reefing plan for decommissioning and converting the  
10 facility to use as an artificial reef, including removal of any portion  
11 thereof as appropriate to maintain navigational safety.

12 (2) A management plan for management of the artificial reef,  
13 including maintenance in a manner consistent with navigational  
14 safety and enforcement and monitoring, and, if applicable, a buffer  
15 zone in which fishing or removal of marine life may be limited or  
16 prohibited.

17 (3) A proposed determination of the net environmental benefit  
18 of conversion of the facility to an artificial reef, compared to the  
19 alternative of removing the facility from the marine environment.  
20 The determination of net environmental benefit shall take into  
21 account the contribution of the artificial reef to protection and  
22 productivity of fish and other marine life, any adverse impacts to  
23 biological resources, water quality, air quality, or any other offshore  
24 or onshore environmental impacts from the full removal of the  
25 facility that would be avoided by conversion to an artificial reef,  
26 and any adverse impacts to biological resources, water quality, air  
27 quality, or any other offshore or onshore environmental impacts  
28 from the decommissioning and conversion of the facility or from  
29 allowing the facility to remain in place as an artificial reef.

30 (4) A proposed calculation of the cost savings as defined in  
31 subdivision (b) of Section 6421.

32 (e) Within 180 days of receipt of an application that meets the  
33 requirements of subdivision (d), the department shall make a final  
34 determination whether the proposed project meets all of the  
35 requirements of this section and of Sections 6427 and 6427.5, and  
36 demonstrates a net environmental benefit of conversion of the  
37 facility to an artificial reef, taking into account the factors in  
38 paragraph (3) of subdivision (d).

39 (f) Prior to making a final determination as provided in  
40 subdivision (e), the department shall consult with all responsible

1 agencies and trustee agencies, as defined in Sections 21069 and  
2 21070 of the Public Resources Code, shall provide opportunity  
3 for public comment and shall hold a public hearing.

4 (g) Upon making a final determination as provided in  
5 subdivision (e), the department shall determine the cost savings  
6 as provided in Section 6429.

7 (h) If the department makes a final determination that the  
8 proposed project meets all of the requirements of this section and  
9 of Sections 6427 and 6427.5, and demonstrates a net environmental  
10 benefit of conversion of the facility to an artificial reef, the  
11 department and the applicant may enter into an agreement which  
12 shall enroll the facility in the accelerated program, require the  
13 applicant to perform the decommissioning and conversion of the  
14 facility in accordance with the reefing plan and, upon completion  
15 of the decommissioning and conversion of the facility, require the  
16 state to take title to the artificial reef and responsibility for  
17 implementation of the management plan. Upon the execution of  
18 that agreement by the department and the applicant, the applicant  
19 shall pay the equivalent of 50 percent of the cost savings  
20 apportioned to the California Endowment for Marine Preservation  
21 pursuant to Section 6429.3, as determined by the department, to  
22 the department for deposit into the General Fund.

23 (i) Upon completion of the decommissioning and conversion  
24 of the facility to an artificial reef, and upon the transfer of title to  
25 the artificial reef to the state, the applicant shall deposit the balance  
26 of the cost savings apportioned to the California Endowment for  
27 Marine Preservation pursuant to Section 6429.3 into the California  
28 Endowment for Marine Preservation. The endowment board may  
29 expend that money for the purposes of Division 37 (commencing  
30 with Section 71500) of the Public Resources Code.

31 (j) Within 15 years of the deposit of 50 percent of the cost  
32 savings in the General Fund as provided in subdivision (h), the  
33 state, upon appropriation by the Legislature for that purpose, shall  
34 deposit 80 percent of that sum into the California Endowment for  
35 Marine Preservation, and shall pay 20 percent of that sum to the  
36 board of supervisors of the county immediately adjacent to the  
37 location of the facility prior to its decommissioning.

38 (k) If the department and the state enter into an agreement and  
39 the applicant pays funds to the department for deposit into the  
40 General Fund pursuant to subdivision (h), and that agreement is

1 challenged in court and found to be invalid or unenforceable for  
2 any reason, the state, upon appropriation by the Legislature for  
3 that purpose, shall return those funds to the applicant and the  
4 application shall be considered by the department as provided in  
5 Sections 6427 and 6427.5.

6 (l) The applicant shall provide sufficient funds to the department  
7 for the cost of enrolling the facility in the accelerated program, as  
8 determined by the department, including the costs of reviewing  
9 and approving the application and determining whether the  
10 proposed project meets the requirements of this section and all  
11 applicable laws.

12 (m) This section shall remain in effect only until January 1,  
13 2014, and as of that date is repealed, unless a later enacted statute,  
14 that is enacted before January 1, 2014, deletes or extends that date.

15 SEC. 3. Division 37 (commencing with Section 71500) is added  
16 to the Public Resources Code, to read:

17  
18 DIVISION 37. CALIFORNIA ENDOWMENT FOR MARINE  
19 PRESERVATION

20  
21 CHAPTER 1. FINDINGS AND DECLARATIONS

22  
23 71500. (a) The Legislature hereby finds and declares all of the  
24 following:

25 (1) The Pacific Ocean and its rich marine living resources are  
26 of great environmental, economic, aesthetic, recreational,  
27 educational, scientific, social, cultural, and historic importance to  
28 the people of California.

29 (2) Programs to conserve, protect, restore, and enhance the  
30 marine fishery resources of the state are needed because of past  
31 overfishing and damage to marine habitats and their ecosystems.  
32 These programs should be coordinated with efforts to reduce  
33 overfishing and damage to marine habitats and their ecosystems.

34 (3) A program that will speed up the decommissioning of  
35 offshore oil platforms will enhance the environmental, aesthetic,  
36 and recreational features of the coastal environment. Any offshore  
37 oil platforms that are nearing possible retirement should be  
38 removed as quickly as possible to improve the aesthetic character  
39 of the areas of the California coast that have been adversely  
40 impacted by offshore oil activities.

1 (4) The State of California recognizes the need to formulate its  
2 environmental and resource management policies based on the  
3 best available scientific information and should utilize the  
4 University of California, the California State University, other  
5 institutions of higher learning, and marine science research  
6 institutions to the fullest extent possible to assist it in achieving  
7 that goal.

8  
9 CHAPTER 2. DEFINITIONS

10  
11 71520. Unless the context requires otherwise, the following  
12 definitions govern the construction of this division:

13 (a) “Artificial reef” means manmade or natural objects  
14 intentionally placed in selected areas of the marine environment  
15 to duplicate those conditions that induce production of fish and  
16 invertebrates on natural reefs and rough bottoms and that stimulate  
17 the growth of kelp or other midwater plant life that creates natural  
18 habitat for those species.

19 (b) “Board” or “endowment board” means the Board of  
20 Directors of the California Endowment for Marine Preservation.

21 (c) “Cost savings” are the difference between the estimated cost  
22 to the operator or owner of complete removal of an offshore oil  
23 platform or production facility and the costs incurred by the  
24 operator or owner of converting a platform or facility into an  
25 artificial reef.

26 (d) “Endowment” means the California Endowment for Marine  
27 Preservation.

28 (e) “National Fishing Enhancement Act of 1984” means Title  
29 II of Public Law 98-623.

30 (f) “Offshore oil platform or production facility” means  
31 platforms, piers, and artificial islands located seaward of mean  
32 lower low water, used for oil and gas exploration, development,  
33 production, processing, or storage.

34 (g) “Oil” means any kind of petroleum, liquid hydrocarbons,  
35 natural gas, or petroleum products or any fraction or residues  
36 therefrom.

37 (h) “Open coastal marine resource” means those marine  
38 resources that use open coastal waters as their habitat.

39 (i) “Open coastal waters” means the area composed of the  
40 submerged lands of the state that are below the mean lower low

1 water extending seaward to the boundaries of the Exclusive  
2 Economic Zone.

3 (j) “Reef materials” includes only materials allowed under the  
4 National Artificial Reef Plan, adopted under the National Fishing  
5 Enhancement Act of 1984 for construction of artificial reefs.

6 (k) “State waters” means waters within the seaward boundary  
7 of the state as identified in Section 2 of Article III of the California  
8 Constitution.

9  
10 CHAPTER 3. ESTABLISHMENT

11  
12 71530. The California Endowment for Marine Preservation is  
13 hereby established. The endowment is subject to this division and  
14 to the Nonprofit Public Benefit Corporation Law (Part 2  
15 (commencing with Section 5110) of Division 2 of Title 1 of the  
16 Corporations Code). If there is a conflict between this division and  
17 the Nonprofit Public Benefit Corporation Law, this division shall  
18 prevail.

19 71531. (a) Nothing in this division shall be construed to do  
20 any of the following:

21 (1) Relieve the prior owner or operator of an oil facility from  
22 any continuing liability under any of the following, if the liability  
23 is associated with seepage or release of oil from an oil facility that  
24 was decommissioned pursuant to an order of, or any action taken  
25 by, and in accordance with, any applicable rule or regulation of  
26 any federal or state agency:

27 (A) Any state statute or regulation regarding liability for the  
28 spilling of oil.

29 (B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701  
30 et seq.).

31 (C) Any other provision of law.

32 (2) Establish any new liability on the part of the state.

33 (3) Require, authorize, or in any way encourage any agency  
34 with jurisdiction to approve the reefing, in whole or in part, of an  
35 oil platform.

36 (4) Promote, encourage, or facilitate offshore oil exploration,  
37 development, and production within California’s open coastal  
38 waters.

39 (5) Require the United States Department of the Interior’s  
40 Minerals Management Service or the State Lands Commission to



1 modify, amend, or alter an existing oil and gas lease to approve  
2 the reefing of an oil platform in place.

3 (6) Alter any existing law that establishes liability for damages  
4 arising with respect to artificial reefs or reef materials, including,  
5 but not limited to, components of decommissioned oil facilities.

6 (7) Alter any existing law or policy that protects or otherwise  
7 favors natural reefs.

8 (8) Alter or limit the authority or responsibility of the California  
9 Coastal Commission, the San Francisco Bay Conservation and  
10 Development Commission, the State Lands Commission, the  
11 National Marine Fisheries Service, or the Minerals Management  
12 Service of the United States Department of the Interior.

13 (9) Promote or encourage any particular method of  
14 decommissioning.

15 (b) Further, any decommissioning of an offshore oil platform  
16 or production facility for use as an artificial reef shall not be used  
17 or counted as mitigation for any environmental impacts or natural  
18 resources damages.

19  
20 CHAPTER 4. BOARD OF DIRECTORS  
21

22 71540. The endowment is governed by the Board of Directors  
23 of the California Endowment for Marine Preservation. The board  
24 consists of nine members appointed by the Governor as follows:

25 (a) One member who shall be an expert in marine science from  
26 the University of California, the California State University, or  
27 other accredited university.

28 (b) One member who shall be an expert in marine fisheries from  
29 the University of California, the California State University, or  
30 other accredited university.

31 (c) One member who shall be from a nonprofit, public interest  
32 organization with emphasis on marine conservation.

33 (d) One member who shall be from a nonprofit public interest  
34 organization with an emphasis on marine conservation and  
35 sustainable consumptive recreational activities.

36 (e) One member who shall be from a nonprofit public interest  
37 organization with an emphasis on marine conservation and  
38 sustainable nonconsumptive recreational activities.

39 (f) The Secretary of the Natural Resources Agency, or his or  
40 her designee, who shall also serve as chairperson.

(g) One person who is serving as an elected local government official for a local governmental agency with jurisdiction over, or directly adjacent to, open coastal waters containing oil platforms or production facilities.

(h) Two representatives of the public.

71541. The term of office of each member of the board is six years. However, the term of office for the first board member appointed pursuant to subdivisions (a), (b), and (c) of Section 71540 is two years. The term of office for the first board members appointed pursuant to subdivisions (f) and (g) of Section 71540 is four years.

71542. Any vacancy on the board shall be filled by the Governor by appointment for the unexpired term.

71543. (a) The board shall conduct its initial meeting as soon as possible after incorporation.

(b) The board shall meet as often as required, but at least twice per year.

(c) Members of the board shall attend at least 50 percent of all duly convened meetings of the board in a calendar year. A member who fails to attend at least 50 percent of all duly convened meetings of the board in a calendar year forfeits membership on the board. The vacancy shall be filled pursuant to Section 71542.

(d) Members of the board shall receive no salary but shall be paid one hundred dollars (\$100) per day for each meeting and shall be reimbursed for all necessary travel expenses.

#### CHAPTER 5. POWERS AND DUTIES

71550. The members of the board first appointed shall serve as incorporators of the endowment and shall take whatever actions are necessary to establish the endowment pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) once a majority of the board is appointed.

71551. It is the intent of the Legislature that the endowment not be incorporated until funds are made available pursuant to the California Marine Legacy Act (Article 2 (commencing with Section 6420) of Chapter 5 of Part 1 of Division 6 of the Fish and Game Code).

1 71552. (a) The purpose of the endowment is to create a  
2 permanent source of funding for projects that will conserve, protect,  
3 restore, and enhance the open coastal marine resources of the state.  
4 To achieve this objective, the endowment board may allocate  
5 funding to do any or all of the following:

6 (1) Support applied research into open coastal marine fisheries,  
7 marine habitat, or other related research in support of projects to  
8 conserve, protect, restore, and enhance the open coastal marine  
9 resources of the state. In so doing, the board shall endeavor to take  
10 maximum advantage of the scientific research expertise available  
11 from the University of California, the California State University,  
12 other institutions of higher learning, and marine science research  
13 institutions with expertise in marine resource issues. Funding for  
14 research projects shall not exceed 10 percent of the overall funding  
15 in any fiscal year.

16 (2) Support projects in open coastal waters that enhance  
17 environmentally sustainable marine activities.

18 (3) Support projects in open coastal waters to enhance the habitat  
19 for open coastal marine life.

20 (4) Support programs in open coastal waters that lead to  
21 enforcement of laws regulating the take of open coastal marine  
22 species, the protection of habitat, and the protection and monitoring  
23 of open coastal marine species and habitat with an emphasis on  
24 innovative approaches.

25 (5) Support programs to aid in the establishment of safe fishing  
26 levels and reduce or prevent habitat damage in open coastal waters.

27 (6) Support programs to monitor catch and bycatch and to reduce  
28 bycatch in fisheries managed by the State of California and by the  
29 United States.

30 (b) The endowment board may also do all of the following:

31 (1) Obtain grants from, and contract with, individuals and with  
32 private, local, state, and federal agencies, organizations, and  
33 institutions.

34 (2) Contract with, or make grants to, conservation and  
35 educational organizations; marine institutes; aquariums and  
36 museums; institutions of higher education; and local, state, and  
37 federal agencies.

38 (3) Loan funds to private, local, state, and federal agencies,  
39 organizations, and institutions.

1 (c) The endowment shall create a business plan for a five-year  
2 period. The endowment shall update the plan annually.

3 (d) On or before February 1 each year, the endowment shall  
4 submit a report to the appropriate fiscal and policy committees of  
5 the Legislature for the preceding fiscal year. The report shall  
6 include all of the following:

7 (1) The updated business plan created pursuant to subdivision  
8 (c).

9 (2) A comprehensive and detailed report of the endowment's  
10 operations, activities, financial condition, and accomplishments  
11 under this section.

12 (3) A listing of each recipient of a grant from the endowment  
13 and the purposes and amount of that grant.

14 (4) A listing of any loan that the endowment has received and  
15 the plan for repaying the loan.

16 (5) A report of each independent audit required pursuant to  
17 subdivision (e) of Section 71560.

18 71553. Members of the board and appropriate staff shall be  
19 available to testify before appropriate committees of the  
20 Legislature.

21 71554. The endowment shall not contribute to, or otherwise  
22 support, any political party, candidate for elective public office,  
23 or ballot measure.

24 71555. The endowment may hire employees and may obtain  
25 legal counsel. No employee of the endowment is an employee of  
26 the State of California. No employee of the endowment is subject  
27 to Chapter 10.3 (commencing with Section 3512) of, or Chapter  
28 10.5 (commencing with Section 3525) of, Division 4 of Title 1 of  
29 the Government Code. Employees of the endowment have the  
30 right to representation consistent with the federal National Labor  
31 Relations Act (29 U.S.C. Sec. 151 et seq.).

32 71556. The endowment shall coordinate its activities with the  
33 Department of Fish and Game, the California Coastal Commission,  
34 the San Francisco Bay Conservation and Development  
35 Commission, the State Lands Commission, and appropriate federal  
36 agencies, including the National Marine Fisheries Service and the  
37 Minerals Management Service of the United States Department  
38 of the Interior. Nothing in this division limits the authority and  
39 responsibility of any of these agencies.

CHAPTER 6. FINANCIAL TRANSACTIONS AND AUDITS

71560. (a) The endowment may receive charitable contributions or any sources of income that may be lawfully received, including loans from the state.

(b) The endowment shall administer any funds it receives in accordance with this division.

(c) The endowment shall invest and manage any funds it receives so that the investments shall provide a source of income in perpetuity and the principal amount consisting of charitable contributions and donations, including cost savings donated pursuant to Section 6429.3 of the Fish and Game Code, shall not be spent. Any returns on investments made by the endowment are the only funds that shall be available for expenditure by the endowment.

(d) The endowment shall invest and manage any funds it receives in accordance with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(e) The accounts of the endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(f) The financial transactions of the endowment for any fiscal year may be audited by the Bureau of State Audits. A report of each audit completed pursuant to this subdivision shall be made to the Legislature and the Governor.

(g) Each recipient of assistance by grant, contract, or loan pursuant to this division shall keep records reasonably necessary to disclose fully the amount of the assistance, the disposition of the assistance, the total cost of the project or undertaking in connection with which the assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and other records that will facilitate an effective audit. Each recipient of a fixed price contract awarded pursuant to competitive bidding procedures is exempt from the requirements of this subdivision.

(h) The endowment, or its authorized representative, and the Bureau of State Audits shall have access to any records necessary for the purpose of auditing and examining all funds received or expended by the recipients of assistance.

1     71565. Nothing in this division is intended, nor shall it be  
2 construed, to limit or affect the authority or duties of any state or  
3 local agency, including, but not limited to, the State Lands  
4 Commission, the California Coastal Commission, and the  
5 Department of Fish and Game. Nothing in this division is intended,  
6 nor shall it be construed, as an approval of any particular method  
7 of abandonment.

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